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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/481,643	01/12/2000	LUNDY LEWIS	C0441/7154	5926

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EXAMINER

NGUYEN, CHAU T

ART UNIT

PAPER NUMBER

2152

DATE MAILED: 07/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/481,643

Applicant(s)

LEWIS ET AL.

Examiner

Chau Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3 6) ☐ Other: _____

DETAILED ACTION

1. The Examiner acknowledges the cancellation of claims 1-30 without prejudice, as well as newly added claims 31-40 and will examine them accordingly. Claims 31-40 are presented for examination.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 31-40 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-30 of Lewis et al., U.S. Patent No. 6,131,112. Although the conflicting claims are not identical, they are not patentably distinct from each other because the context of the claimed invention is the same as the context of the cited claims of the U.S. Patent No. 6,131,112.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 31-33 and 37 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Gilbert et al. (WO 95/08794).

6. As to claim 31, Gilbert et al. disclose the method for managing a communications network, the communications network including a first management system, or a

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communications manager, and a second management system, or communications manager, the method comprising the steps of: (a) maintaining a first set of management information, or distribution unit by the first communications manager; (b) maintaining a second distribution unit by the second communications manager; (c) forwarding the first distribution unit to the second communications manager; and (d) providing an analysis based on the first and second distribution units (Abstract; Fig. 2, 3, 4A, 4B; page 2, lines 2-18; page 6, line 10 – page 9, line 13, page 10, lines 14-17). Thus, Gilbert et al, reads on the invention as disclosed and broadly claimed in claim 1.

7. As to claim 32, Gilbert et al. disclose sending an event message, or a distribution unit, in a data format compatible with the second communications manager, to the second communications manager (Abstract; Fig. 2, 3, 4A, 4B; page 2, lines 2-18; page 6, line 10 – page 9, line 13, page 10, lines 14-17).

8. As to claim 33, Gilbert et al. disclose the distribution unit is sent when the distribution unit relates to an entity managed by the second communications manager. (Abstract; Fig. 2, 3, 4A, 4B; page 2, lines 2-18; page 6, line 10 – page 9, line 13, page 10, lines 14-17).

9. As to claim 37, Gilbert et al. disclose forwarding, in a data format compatible with the second communications manager, to the second communications manager

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(Abstract; Fig. 2, 3, 4A, 4B; page 2, lines 2-18; page 6, line 10 – page 9, line 13, page 10, lines 14-17).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 34-36 and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilbert et al. as applied to claims 31-33 and 37 above, and further in view of Gagne et al., Patent No. 5,473,608.

Gilbert et al. disclose the all of the aspects of the invention except for the limitations added by claims 34-36 and 38-40. In that art, Gilbert et al. operate in a distributed network, the artisan would have looked to the related art for methods of implementing communications in a distributed network. In that art, Gagne et al., a related communications method for distributed heterogeneous networks, discloses that implementing a pacing protocol stack would allow for more efficient utilization of communications management resources (col. 4, line 42 – col. 5, line 13). Thus, one of ordinary skill in the art would have found it obvious to combine Gilbert et al.'s system

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with the distributed management system of Gagne et al., thereby resulting in the claimed invention, since Gagne suggests that a pacing management protocol would be more efficient in a distributed network.

12. As to claim 34, Gagne et al. disclose the first communications manager includes a network management platform and the second communications manager includes a system management platform (col. 30, lines 10-65). End user communications managers are system management nodes and intermediate communications managers are network management nodes. By this rationale, claim 34 is rejected.

13. As to claim 35, Gagne et al. disclose a step of correlating the first and second distribution units (col. 8, line 42 – col. 9, line 23). By this rationale, claim 35 is rejected.

14. As to claim 36, Gagne et al. disclose a step of filtering distribution unit by the first communications manager (col. 56, lines 11-18, management filters). By this rationale, claim 36 is rejected.

15. As to claim 38, Gagne et al. disclose providing an alarm to a user based on the providing step (col. 55, line 3-59). By this rationale, claim 38 is rejected.

16. As to claim 39, Gagne et al. disclose maintaining a database of a plurality of probably causes (plurality of related distribution units), and based on the providing step,

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displaying at least one of the plurality of distribution units to a user (col. 7, line 7 – col. 9, line 23). By this rationale, claim 39 is rejected.

17. As to claim 40, Gagne et al. disclose the at least one file distribution unit includes text describing an affected network entity and problem (col. 7, line 7 – col. 9, line 23). File attachments are routinely processed in an IBM System Network Architecture (SNA). By this rationale, claim 40 is rejected.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chau Nguyen whose telephone number is (703)305-4639. The Examiner can normally be reached on Monday-Friday from 7:30am to 4:30pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mark Rinehart, can be reached at (703) 305-4815.

The fax phone numbers for the organization where this application is assigned are as follows:

(703) 746-7238 (After Final Communications only)

(703) 746-7239 (Official Communications)

(703) 746-7240(for Official Status Inquiries, Draft Communications only)

Inquiries of a general nature relating to the general status of this application or proceeding should be directed to the 2100 Group receptionist whose telephone number is (703) 305-3900.

Chau Nguyen
Patent Examiner

MARK H. RINEHART
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

A handwritten signature in black ink, appearing to be 'MR', is written over the printed name and title of Mark H. Rinehart.